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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,526	10/24/2000	Rehan M. Khan	03449.000023	3418

5514 7590 03/18/2008  
FITZPATRICK CELLA HARPER & SCINTO  
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NEW YORK, NY 10112

EXAMINER
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KAZIMI, HANI M

ART UNIT	PAPER NUMBER
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3691

MAIL DATE	DELIVERY MODE
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03/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



**DETAILED ACTION**

**Supplemental Action**

1. This communication is in response to applicant's amendment filed on November 21, 2006. The rejections cited are as stated below:

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1, 8, 9 and 10 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to a non-statutory subject matter. Specifically the claims are directed towards an abstract idea.

Claims 1, 8, 9 and 10 represent an abstract idea that does not provide a practical application in the technological arts. There is no physical transformation of data being performed, and no practical application is found. Such an inputting and arithmetic manipulation of data is insufficient practical application to qualify the invention as disclosed and claimed to patent protection. *In re Alappat*, 31 USPQ 2d @ 1556-57 (not until the concept is reduced to some type of practical application, the subject matter is not entitled to patent protection). Consequently, the claims are analyzed based upon the underlying process and thus rejected as being directed to a non-statutory process.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 8-10 and 12-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Kaplan US Patent No. 5,963,916.

Claims 1-5, 8-10 and 12-23, Kaplan discloses a computer implemented method for providing user requested music comprising the steps of; receiving user input defining a plurality of music search attributes, wherein some of the plural music search attributes describe an emotional quality, situational quality of the user and mood describing of music content (column 14, lines 1-15), searching for music samples based upon the user provided search attributes, presenting music samples to the user based upon the user provided input attributes, determining if the user wants to buy any of the presented music samples, determining if the user wants to sample another set of music samples similar to the music purchased, and determining if the user wants another set of music samples that is different than the purchased music (abstract, column 8, lines 33-67, and column 13, line 31 thru column 17, line 62).

***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hani Kazimi whose telephone number is (571) 272-6745. The examiner can normally be reached Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2 17-9197 (toll-free).

/Hani M. Kazimi/

Primary Examiner, Art Unit 3691